

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**PAUL H. ELINE,**

**Petitioner**

**v.**

**JOHN E. WETZEL, *et al.*,**

**Respondents**

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**CIVIL NO. 3:CV-11-0767**

**(Judge Caputo)**

**O R D E R**

**THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:**

Presently before the Court is Mr. Eline's Motion for Sanctions (Doc. 51) based on Respondents' failure to timely serve him with a copy of their response to his habeas petition or a copy of the transcript from his state court collateral relief proceedings. As relief, Mr. Eline seeks the Court to impose a monetary sanction on Respondents as a deterrent to similar dilatory practices in the future.

On June 23, 2011, the Court issued an order directing Respondents to respond to Mr. Eline's habeas corpus petition filed pursuant to 28 U.S.C. § 2254. (Doc. 9.) After seeking an enlargement of time to file a response, the Schuylkill County District Attorney filed a timely response to the petition for writ of habeas corpus on August 11, 2011. (Doc. 19.) On March 26, 2012, Petitioner filed a Traverse and Objections to the Respondents' answer to his habeas petition and supporting memorandum of law. (Docs. 31 and 32.) He alleges his traverse shortly after receiving a copy of Respondents' response to the petition, several months after it was filed with the Court. (Doc. 51.) Without the ability to determine the validity of

these events, the Court accepts Mr. Eline's Traverse as timely filed. Thus, he has not been prejudiced by these alleged events. Next, Mr. Eline asserts that the Respondents have failed to comply with the Court's June 11, 2012 Order directing them to serve him with a copy of the transcript from his state trial court PCRA proceedings.<sup>1</sup> (*Id.*) Our Order did require Respondents to file a copy of their Certificate of Service with the Court demonstrating their compliance with the Order. (Doc. 40.) To date, Respondents have not filed the requested Certificate of Service demonstrating their service of the PCRA transcript on Mr. Eline. Notably, Mr. Eline has received multiple copies of the docket in this case since Respondents filed the PCRA transcript with the Court, and has only recently filed a motion for sanctions based on his lack of receipt of this document. Based on these facts, the Court will deny his motion for sanctions without prejudice. The Court will again direct Respondents to fulfill their obligations under our June Order. If Respondents fail to adhere to the Court's order on this occasion, Mr. Eline may renew his motion for sanctions.

**ACCORDINGLY, THIS 9th DAY OF NOVEMBER, 2012, IT IS**

**HEREBY ORDERED THAT:**

1. Mr. Eline's Motion for Sanctions (Doc. 51) is **DENIED** without prejudice.
2. Within ten (10) days of this Order, the Respondents shall properly serve Petitioner with a copy of the Transcript from his PCRA hearing.

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<sup>1</sup> Respondents filed a copy of the PCRA transcript with the Court on April 17, 2012. See Doc. 36. No certificate of service was attached to that filing.

3. Respondents shall file with the Court a copy of their Certificate of Service demonstrating their compliance with this Order.

/s/ A. Richard Caputo  
**A. RICHARD CAPUTO**  
**United States District Judge**